

REMARKS

Claims 13-20 and 22-27 are currently pending in the subject application.

Claim 1 is the sole independent claim.

The courtesies extended by Examiner Hayes to Applicant's representative, David J. Cho, Reg. 48,078, during a telephonic interview conducted on October 23, 2009, are acknowledged and appreciated. The substance of the interview is set forth in the Examiner's Interview Summary and in the following Applicant Initiated Interview Summary.

A. Applicant Initiated Interview Summary

On October 23, 2009, an Applicant's initiated telephonic interview was conducted. As required by 37 C.F.R. § 1.133(b), Applicant's summary of that interview is as follows:

1. Brief Description of any Exhibit Shown

No exhibit was shown or demonstrated during the interview.

2. Identification of the Claims Discussed

The Examiner and Applicant's representative discussed independent claim 1.

3. Identification of the Specific Prior Art Discussed

U.S. Patent Publication No. 2007/0215053 to Duke was discussed.

4. Identification of the Proposed Amendments

No further amendments were proposed during the interview.

5. Summary of the Arguments Presented to the Examiner

Applicant's representative presented arguments that the Amendment filed September 2, 2009 overcomes the rejections based on the Duke reference, and

therefore, the claims are allowable. Examiner Hayes was not responsive to the arguments and stated that she will not consider the Amendment as the application is under a final, and still requires further search and consideration, e.g., "a vacuum difference measuring device, provided to measure a vacuum difference between the lower end of said teat cup liner and said space, and provided to adjust a vacuum level in said space during milking according to at least said measured vacuum difference." However, Examiner Hayes agreed that, if a Request for Continued Examination (RCE) was filed, the Amendment may overcome the current rejections.

6. General Indication of Other Pertinent Matters Discussed

The Examiner also indicated that the Advisory Action mailed September 21, 2009 improperly did not check the appropriate box. In particular, as agreed during the interview, the Amendment filed September 2, 2009 raises further consideration and search, and therefore, the box (i.e., box 3(a)) indicating as such should have been checked.

7. General Outcome of the Interview

The Examiner and Applicant's representative agreed on the nature of the subject matter recited in independent claim 1, and indicated that further search and/or consideration will be required.

B. Conclusion

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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